

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

In re

Case Number 13-11130
Chapter 7

Ricky Joe Shelton
Carla Renea Shelton
Debtor(s).

Plaintiffs

Ricky Joe Shelton
Carla Renea Shelton

v.

Adv. Proc. No. 13-

Defendant

CACH, LLC assignee of Providian Bank

COMPLAINT TO AVOID PRE-PETITION JUDGMENT LIEN

Comes now the Debtor(s)/Plaintiff(s), by and through their undersigned counsel of record and would show unto the Court the following:

1. On April 30, 2013, the above referenced plaintiffs' filed a Chapter 7 bankruptcy case in this court which was assigned case # 13-11130.
2. Prior to the filing of this bankruptcy, defendant CACH, LLC, assignee of Providian Bank obtained a judgment against plaintiffs in the amount of \$2828.51 in the General Sessions Court of Dyer County, TN under Civil Action # 2007-CV-1836.
3. This judgment was obtained against them on or about November 30, 2007.
4. Defendant, CACH, LLC assignee of Providian Bank then obtained a certified copy of its judgment and registered same in the Register's Office of Dyer County, Tennessee. This judgment lien was recorded on deed book 663, pages 21-21 on or about November 30, 2007.

5. Pursuant to the laws in the State of Tennessee, said registration of a lien acts as a judgment lien on any real property that plaintiffs own in Dyer County.

6. The only property owned by plaintiffs is a home located at 1075 Forrester Road, Newbern, TN 38059.

7. The property located at 1075 Forrester Road, Newbern, TN 38059 was purchased by Plaintiffs/Debtors and a warranty deed was recorded in the Register's Office in Dyer County, TN in Book 500 Page 10 with a property description as follows:

Land lying and being in the Ninth (9th) Civil District of Dyer County, Tennessee, and described as follows:

Being Lot 3 of the Gene Austin-Baker Subdivision as shown by plat recorded in Mini Plat Book 2, Page 396, in the Register's Office for Dyer County, Tennessee, reference to which is made for a more complete description of and to said realty.

Being the same property conveyed to Ricky J. Shelton and wife, Carla Shelton by warranty deed of Homestead 2000 of Dyer County LLC, recorded in Record Book 500, Page 8, Register's Office for Dyer County, Tennessee.

8. The value of said home is \$58,700.00, however, there is a lien in favor of Wells Fargo Home Mortgage with a payoff amount of \$53,173.00.

9. Plaintiffs are entitled to a homestead exemption in the amount of \$25,000.00 on said home.

10. The pre-petition judgment lien of CACH, LLC assignee of Provident Bank impairs the homestead to which plaintiffs would otherwise be entitled in the property, and pursuant to 11 USC § 522 (f) (1) (A), said lien is voidable.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs/Debtors request that this court issue an order declaring the pre-petition judicial lien of defendant to be null, void, and without

effect and authorize the entry of said order to extinguish the pre-petition judgment lien of defendant.

RESPECTFULLY SUBMITTED

Robert B. Vandiver, Jr.

/s/ Robert B. Vandiver, Jr.

Robert B. Vandiver, Jr. #15685

P.O. Box 906

Jackson, TN 38302-0906

(731)-554-1313

CERTIFICATE OF SERVICE

The undersigned party, Attorney for party or agent therefore hereby certifies that on this 14th day of May, 2013, copies of the documents identified above were served by mail to the parties listed.

A complaint captioned complaint to avoid pre-petition judgment lien filed by the debtor counsel on May 14, 2013.

/s/ Robert B. Vandiver, Jr.
Robert B. Vandiver, Jr. 15685
P.O. Box 906
Jackson, TN 38302-0906
731-554-1313

Robert B. Vandiver, Jr.
P.O. Box 906
Jackson, TN 38302

Marianna Williams
P.O. Box H
Dyersburg, TN 38024-2008

Ricky & Carla Shelton
1075 Forrester Road
Newbern, TN 38059

CACH, LLC
Assignee of Providian Bank
c/o Garner & Connor, PLLC
P.O. Box 5059
Maryville, TN 37802

K J Counsil, as Registered Agent
for CACH, LLC
5924 Nature Lane
Knoxville, TN 37912

Phillip Scott Lowery
CEO for CACH, LLC
370 17th Street, Suite 5000, Denver, CO 80202-3050

Joseph W. Saunders
CEO for Providian Bank
295 Main Street
Tilton, NH 03276-5147